

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 20-MJ-564

ROBERT FORBES, JR. a/k/a Ra Ra a/k/a Henny

Defendant

CRIMINAL COMPLAINT

I, SEAN MARTINECK, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between in or about January 7, 2020 and March 26, 2020, in the County of Monroe, in the Western District of New York, the defendant did knowingly unlawfully obstruct commerce by robbery and conspire to obstruct commerce by robbery, and did knowingly aid and abet the possession and discharge of a firearm in furtherance of, and carrying and discharge of a firearm during and in relation to, a crime of violence, in violation of Title 18, United States Code, Sections 1951(a), 924(c)(1)(A)(iii) and 2.

This Criminal Complaint is based on these facts:

SEE ATTACHED AFFIDAVIT OF SPECIAL AGENT SEAN MARTINECK.

☒ Continued on the attached sheet.

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim. P. 4.1 and 4(d) on:

Date: April 2, 2020 at 12:36 p.m.

City and State: Rochester, New York



Complainant's signature

S/A SEAN MARTINECK

Printed name and title



Judge's signature

HONORABLE MARK W. PEDERSEN
UNITED STATES MAGISTRATE JUDGE

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

20-MJ- AFFIDAVIT

-v-

ROBERT FORBES, Jr.
a/k/a Ra Ra a/k/a Henny,

Defendant.

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

I, Sean J. Martineck, affirm to the following facts:

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, & Explosives (hereinafter ATF), and am assigned to the Rochester, New York Field Office. Your affiant is a graduate of the ATF National Academy and the Criminal Investigator School located at the Federal Law Enforcement Training Center in Glynco, Georgia. Your affiant has been employed as an ATF Special Agent since 2001. Your affiant has been involved in well over five hundred (500) firearms trafficking investigations. I am currently assigned to the Rochester Police Department's Violent Crime Task Force. Moreover, prior to becoming an ATF Agent, I was employed as a United State Probation Officer for approximately 4 years, where I handled numerous firearms related cases.
2. This affidavit is submitted in support of a criminal complaint charging Robert FORBES Jr. a/k/a Ra Ra a/k/a Henny with violations of Title 18, United States Code Sections 1951(a) (Hobbs Act robbery/conspiracy) and 924(c)(1)(A)(iii) (aiding

and abetting the possession and discharge of a firearm in furtherance of, and carrying and discharge of a firearm during and in relation to, a crime of violence) and 2 (aiding and abetting). The assertions made herein are based solely upon the personal knowledge of your affiant and information I have received from this investigation, to include your affiants review of various police reports, and my direct discussions with other law enforcement officers.

Home Invasion #1

3. On January 7, 2020, at approximately 12:20 A.M., members of the Rochester Police Department were dispatched to 987 Glide Street, Apartment #3 in the city of Rochester for the report of a home invasion robbery. When officers arrived, they located the victim, Miguel Colon, who stated that when he returned home with his girlfriend, he found two (2) individuals, one who was armed with a handgun, inside his residence wearing ski masks. Upon seeing the suspects, Colon broke a window in his porch to scare them away, but he was hit in the head with a shovel and then shot in the leg by one of the suspects. The suspects then exited the residence and fled behind the location on foot. The victim advised an elderly female with dementia was inside the location when the suspects entered. During this investigation, Colon advised the suspects stole a large gold chain which had a unique medallion of Jesus with rays of sun behind him from his neck, approximately one ounce of marijuana, a PlayStation, Apple iPad, and \$600.00 U.S. currency. Colon also advised the suspects kept asking where the money was.

4. Based on the above, RPD placed a bulletin for officers to be on the lookout for the medallion to all uniformed officers. On January 11, 2020, at approximately 2:03 A.M., RPD Officer Angel Pagan was in the area of 398 West Main Street dispersing patrons of the Minq Lounge when he observed a heavy-set male black wearing what appeared to be the medallion from the home invasion robbery at 987 Glide Street. Officer Pagan stopped the individual who identified himself as Darius Taylor. Officer Pagan took photos of Taylor and the medallion with his body worn camera and documented it on a police report.
5. On February 6, 2020, RPD Investigator James Castillo applied for and received a NYS search warrant for a google "geofence" warrant for 987 Glide Street at the time of the home invasion robbery. A "geofence" warrant allows law enforcement to search a database to find all active mobile devices within a particular area and time-frame. Google is a common database used on mobile devices. Google's "Sensorvault" collects users' historical geo-location data via GPS records. Google responded to the warrant and advised that at the time of the home invasion, there was only one device inside the "geofence" and the device's subscriber information was: Hennesseyjone585@gmail.com; Rforbesjr85@gmail.com; with SMS 585-867-2409.
6. On March 4, 2020, Investigator Castillo interviewed Darius Taylor via telephone. Taylor advised that he was not stopped by police at a bar in January 2020, and not had any police contact in years.

7. Based on the above, on March 27, 2020, RPD Sergeant Mike Malecki viewed the body wire camera photos taken by Officer Pagan on January 11, 2020, and identified the individual that Officer Pagan spoke to, and who identified himself to Officer Pagan as Darius Taylor, as Robert FORBES Jr. Further information during this investigation revealed Taylor is the brother of FORBES, and they both reside at 953 Dewey Avenue, Rochester, New York.

Home Invasion #2

8. On March 25, 2020, at approximately 10:40 P.M., members of the Rochester Police Department (RPD) were dispatched to 222 Avenue E, Rochester, New York for the report of a home invasion robbery. When officers arrived, they located victim Khalia Moorehead-Edwards who stated that two males forced their way into her residence with handguns and robbed her. Moorehead-Edwards told police one suspect was a shorter male black with short hair wearing red and black and wearing a surgical mask, and heard the other suspect, described as tall wearing all black and a surgical mask, call the shorter suspect "E". Moorehead-Edwards advised the person called "E" pointed a black pistol at her. Moorehead-Edwards advised the two males appeared to be talking to another male on a cell phone who was telling them where to go in the house.
9. Moorehead-Edwards advised she was tied up with a bed sheet and the suspects took her cell phone. Moorehead-Edwards stated the suspects kept asking her where the drugs and money were. Moorehead-Edwards advised the suspects eventually broke

the lock to the attic and found a large plastic bag connected to a white string under the floorboards. Moorehead-Edwards stated "E" told the other suspect it was an ounce of marijuana. Moorehead-Edwards could see the contents of the bag was green. She believes that there was a pound of marijuana in the bag from what she could see.

10. Moorehead-Edwards also advised police that at about 10:00 P.M., there was a knock on the door and when she asked who was there, the person responded its "E", "I am here for a phone." Moorehead-Edwards did not answer the door. Several minutes later, she advised she heard a noise outside the house and when she went outside to check she did not see anything. Several minutes later she heard another knock on the door. This time she answered and was met at the door by a suspect (described below as "E") holding a gun that said, "back up bitch!"
11. Moorehead-Edwards advised police she could identify the suspect named "E" because the mask was not completely covering his face. As such, on March 26, 2020, at approximately 9:54 pm, your affiant showed Moorehead-Edwards a photo-array consisting of six (6) photographs. Moorehead-Edwards identified photograph #3 as "E" the same person that came into her home on March 25, 2020 at approximately 10:40pm and pointed a gun at her. The person depicted in position #3 of the photo-array is Eric B LOWE (DOB: XX/XX/1993).
12. On March 25, 2020, RPD Investigator Andrew Mackenzie was doing surveillance in the area of 200 Avenue E on a different investigation. During his surveillance, at approximately 10:05 P.M., Investigator Mackenzie observed a gray Mitsubishi

parked on the street near his surveillance post and ran the vehicle registration, New York license plate JLS-5469, which is registered to Robert FORBES Jr., of 953 Dewey Avenue, Rochester, New York.

Home Invasion #3

13. On March 26, 2020, at approximately 12:28 A.M. (about two hours after the home invasion a 222 Avenue E), RPD officers were dispatched to 64 Wellington Avenue in the City of Rochester. Upon arrival, officers talked to the residents of the location, who advised that two males had kicked in the door and entered the residence, and that one of the males was armed with a handgun.
14. One of the residents, Rasheen Jones Jr, advised that after he was kicked in the face by one of the males, the suspects began asking where the money and drugs were. One of the suspects held a knife to the female victim while the other pointed a gun at Jones. The suspects eventually left the location with a Gucci purse, which contained credit/debit cards and two Louis Vuitton wallets, a Sony PlayStation 4, two cell phones, a key fob for a Lexus parked in the driveway, and approximately \$2,000.00 U.S. currency.
15. Investigators spoke with Jones after smelling marijuana in the attic, and noticing three (3) empty large, empty bags with trace amounts of marijuana inside a suitcase. Jones admitted to selling marijuana, and advised he travels to California where he purchases marijuana and brings it back to Rochester. Jones stated he sells the marijuana "off his phone", by receiving calls and delivering the marijuana to his

customers. Jones advised the \$2,000.00 stolen during the home invasion was proceeds of his marijuana sales.

16. Police learned the residence was equipped with a Ring Door Bell camera, which captured black and white video showing how the three (3) suspects on the back porch gained entry into the home. I have reviewed the video from the Ring Door Bell camera. The video depicts suspect #1, a larger black male with a distinct sweatshirt on and a mask covering half his face, appearing to kick in the back door to the residence. Once the door is open, suspect #1 runs off the porch. Suspect #2, a black male who is wearing a mask and a puffy coat with a distinct pocket on the left breast, is seen holding what appears to be a handgun. Suspect #3, a black male who is not wearing a facemask, then enters the residence with suspect #2.
17. After reviewing this video, RPD Investigator Mark Rohr identified suspect #3 as Eric LOWE. Investigator Rohr advised he arrested LOWE in early March for several state investigations, including burglary and a stolen vehicle. During that arrest, LOWE advised he resided at 50 Almira Street, Rochester, New York.
18. On March 26, 2020, at approximately 8:38 A.M., Investigator Rohr received a phone call from one of the victims of the Wellington Street home invasion who advised they had utilized the Find My iPhone Application to locate one of the stolen cell phones. The victim indicated that at approximately 3:38 A.M., the phone pinged at 50 Almira Street, which is the home address of Eric LOWE.

19. On March 30, 2020, ATF Special Agent Sean Martineck spoke with an ATF Confidential Informant (CI) to show him/her the video taken from the Ring doorbell at 64 Wellington Street. The CI has been providing information to ATF Agents and RPD Investigators since 2004. This information has led to successful seizures of firearms and illegal narcotics, and the arrest and convictions of individuals in federal and state court. After observing the Ring doorbell video, the CI identified the individual in the video kicking down the door as "Henny". The CI advised he/she has known "Henny" for over 20 years and knew him to be from Dewey Avenue.

Car Stop and NYS Search Warrant

20. On March 26, 2020, at approximately 8:00 P.M., members of the RPD were conducting plain clothes surveillance of 50 Almira Street, Apt. #1 when they observed the above-described gray Mitsubishi Mirage (registered to FORBES) pull into the driveway of 50 Almira Street. A male that looked like Eric LOWE entered FORBES' vehicle while it was at 50 Almira Street. The vehicle left the location with plain-clothes officers following it, and returned to the location shortly thereafter. The individual that looked like LOWE exited FORBES' vehicle, went inside 50 Almira Street, Apartment #1, and then came back out to the vehicle. The vehicle then left the location and, after committing NYS vehicle and traffic violations, was stopped by police on Upper Falls Boulevard. Officers identified the driver as Robert FORBES, Jr., the front passenger as Eric LOWE, and the rear passenger as Hugh COX.

21. After smelling marijuana and observing marijuana in plain view, officers detained the vehicle occupants and conducted a search of the vehicle, locating surgical masks in the glove box, a black ski mask in the front passenger door, and zip ties in the rear seat behind the rear center console. Your affiant is aware through other home invasion investigations that zip ties are commonly used by home invaders to tie up their victims, and masks are commonly used to hide a suspect's facial identity.
22. During the search of FORBES' vehicle, officers observed a Motorola cell phone plugged into a charger that was between the front passenger seat and the center console. The phone number of this cell phone is 585-867-2409, which is the same number for the sole device within the geofence during the Glide Street home invasion described above.
23. On March 27, 2020, at approximately 1:30A.M., your affiant, other ATF Task Force Officers, and members of the RPD executed a NYS search warrant at 50 Almira Street, Apartment #1, Rochester, New York. During the search of the residence, police located the Gucci purse and credit cards belonging to the victims of the 64 Wellington Street home invasion.
24. On March 27, 2020, Eric LOWE was charged in U.S. District Court for the Western District of New York under Criminal Complaint No. 20-MJ-4067 with violation of Title 18, United States Code, Sections 1951(a) (Hobbs Act robbery) and 924(c) (possession and brandishing of a firearm in furtherance of, and carrying and

brandishing a firearm during and in relation to, a crime of violence).


Car Stop and Arrest of FORBES

25. On April 1, 2020, while conducting surveillance of FORBES, RPD Tactical Unit officers attempted to conduct a traffic stop of a vehicle (not the gray Mitsubishi) being driven by FORBES at North Clinton Avenue and Norton Street. FORBES immediately fled from officers and took them on a high-speed chase which lasted approximately 13 minutes before he crashed into a marked RPD police car on West Ridge Road. After being taken into custody, police found 10 waxine baggies of a powdery substance which field-tested positive for the presence of heroin. At the scene of the traffic stop, RPD Captain Nasser Zenelovic observed FORBES. Captain Zenelovic recognized FORBES as the male in the Ring video kicking in the door at the 64 Wellington Avenue home invasion.
26. FORBES was eventually brought back to the RPD East Side Office to be interviewed regarding the above-mentioned home invasions. Your affiant provided FORBES his *Miranda* warnings, which he waived and agreed to speak to police. During the interview, FORBES admitted to participating in the home invasion of 64 Wellington Street. FORBES admitted that he had received intelligence that “pounds of weed” would be inside 64 Wellington Street, and was advised to enter using the back door. FORBES advised that on the night of the home invasion he drove to the location in his car with a person he knows as “E”, and another unknown person who carried a handgun. FORBES advised that he kicked in the back door and the two other


individuals then entered the house. FORBES claimed he never met up with “E” and the other individual to see what they took out of the house. FORBES admitted that 585-867-2409 was his telephone number.

27. During the interview, FORBES claimed he did not participate in the Glide Street home invasion. FORBES was shown the body wire camera photo from the January 11, 2020 street stop by Officer Pagan and FORBES admitted he was the person in the photo talking to Officer Pagan and wearing a gold Jesus medallion. FORBES advised he knew it was stolen from the Glide Street home invasion, but claimed he bought it from a third person. FORBES could not explain why his phone was inside the “geofence” at the Glide Street home invasion.
28. On April 2, 2020, RPD Investigators Joe Briganti and Mark Rohr showed Colon, the victim of the home invasion at 987 Glide Street, the body wire camera photo from the January 11, 2020 street stop by Officer Pagan. Colon identified the gold chain and medallion that FORBES was wearing in the photo as Colon’s medallion that was ripped from his neck during the home invasion at 987 Glide Street a few nights earlier.
29. Based on the above information, I submit there is probable cause to believe that between January 7, 2020, and March 26, 2020, in the City of Rochester, County of Monroe, New York, Western District of New York, Robert FORBES Jr. a/k/a Ra Ra a/k/a Henny, was in violation of Title 18, United States Code, Sections 1951(a)

(Hobbs Act robbery/conspiracy) and 924(c)(1)(A)(iii) (aiding and abetting the possession and discharge of a firearm in furtherance of, and carrying a firearm during and in relation to, a crime of violence) and 2 (aiding and abetting).


S/A
Sean J. Martineck
ATF Special Agent, ATF

Affidavit and Criminal Complaint submitted electronically by email in .pdf format. Oath administered, and contents and signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim. P. 4.1 and 4(d) on April 2, 2020


HONORABLE MARK W. PEDERSEN
United States Magistrate Judge